

Application No.: 10/668991
Docket No.: FA0803USNA

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REMARKS

Claims 1-11 are pending in the present application, and were made subject to a restriction requirement. Claims 8 and 11 are withdrawn from consideration as being drawn to a non-elected invention, but will be rejoined when independent claim 1 becomes allowable. Claims 1-7, 9 and 10 are rejected.

The Examiner has sustained the provisional rejection of claim 2 under the judicially created doctrine of obviousness-type double patenting over claims 8 of co-pending Application 10/668,989 and over claim 9 of co-pending Application No. 10/668,992. Applicants maintain that since none of the claims of the present application, or copending Applications Nos. 10/668,989 and No. 10/668,992 have been found allowable, Applicants will file a terminal disclaimed if and when such conflicting claims are found allowable.

The Examiner has sustained his rejection of claims 1-7, 9, 10 under 35 USC 102(b) as being anticipated by JP-11-100797 A. Applicants have amended claim 1 to recite a coating composition that is useful as an automobile or truck body top coat over a basecoat, and also as a clearcoat. Further, the composition of claim is capable of being applied as a clearcoat and being formulated into a one package system. Indeed, these limitations are not disclosed by the prior art and make it clear that the applications are different, thereby reflecting a different use of the claimed composition. Claims 2-7, 9 and 10 depend from claim 1, and therefore incorporate all limitations of amended claim 1. Reconsideration of the rejection is requested.

The Examiner has also sustained his rejection of claims 1-7, 9, 10 under 35 USC 103(a) as being unpatentable over JP2003-129003 in view of Johnson et al (US 6,350,526 B1) is sustained. Applicants maintain their traversal of the rejection.

As amended, claim 1 is directed to a top coat to be applied over a basecoat, or as a clearcoat for an automobile or truck body. Further, the claimed invention is clearly not directed to an electrodeposition coating, as is the JP2003-129003 reference. As amended, claim 1 is clearly directed to a coating for applications that result in excellent gloss and distinctness of image, as disclosed on page 3 of the specification. Each and every element of the claimed invention is not present in the combination of the cited references. The present invention is therefore distinguished over the prior art. Reconsideration of the rejection is requested.

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In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,

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